

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|------------------------------|---|------------------------|
| HERITAGE FOUNDATION, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 23-cv-1421-MN |
| |) | |
| DAVID WEISS, et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |

DEFENDANTS’ MOTION FOR AN EXTENSION OF TIME

Defendants respectfully request a 14-day extension of time in order to provide the Court’s requested notice regarding Defendants’ pending Motion for Summary Judgment (D.I. 17) and in response to the Court’s inquiry at the February 24, 2025 status conference. In this Freedom of Information Act (“FOIA”) case, Defendants issued a *Glomar* response neither confirming nor denying the existence of records responsive to Plaintiffs’ request. In asserting this *Glomar* response, Defendants relied on three FOIA exemptions, each providing a basis for the *Glomar* response: FOIA Exemption 7(A), *see* 5 U.S.C. § 552(b)(7)(A) (“records or information compiled for law enforcement purposes . . . [that] could reasonably be expected to interfere with enforcement proceedings”), Exemption 6, *see* 5 U.S.C. § 552(b)(6) (“personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy”), and Exemption 7(C), *see* 5 U.S.C. § 552(b)(7)(C) (“records or information compiled for law enforcement purposes . . . [that] could reasonably be expected to constitute an unwarranted invasion of personal privacy”).

On December 10, 2024, Defendants filed a notice (D.I. 21) stating that Defendants would withdraw their Exemption 7(A) assertion for the *Glomar* response in this case, but that Defendants continue to rely on Exemptions 6 and 7(C) for the *Glomar* response, for all the reasons set forth in their summary judgment briefing. At the February 24, 2025 status conference, the Court ordered Defendants to file a notice by

February 28, 2025, stating that Defendants have reviewed their position and stating whether any further change in position is warranted. Defendants have begun to review the filings in this case but respectfully request an additional 14 days in order to evaluate their position. Defendants propose to submit a notice to the Court no later than March 14, 2025.

Dated: February 28, 2025

Respectfully submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General

MARCIA BERMAN
Assistant Branch Director, Federal Programs Branch

/s/ Michael P. Clendenen
MICHAEL P. CLENDENEN
(D.C. Bar # 1660091)
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20005
Tel: (202) 305-0693
Fax: (202) 616-8460
michael.p.clendenen@usdoj.gov

Attorneys for Defendant